

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Lewis Brisbois Bisgaard & Smith LLP,	§	
Plaintiff	§	
	§	Civil Action 4:22-cv-3279
Michael Joseph Bitgood a/k/a “Michael	§	
Easton,” <i>et al</i>	§	
Defendants	§	

**Defendant Susan C. Norman’s Notice of Appeal Pursuant to the
“Collateral Order Doctrine” - 28 U.S.C. § 1291**

Notice is hereby given that Susan C. Norman, a *pro se* Defendant in the above entitled and numbered cause, hereby appeals to the United States Court of Appeals for the Fifth Circuit from the District Court’s decision on December 8, 2022 as reflected in the Notice of Setting for an “Injunction Hearing” to be held on December 15, 2022 at 3:00 p.m. (see copy attached) and forwarded to Susan C. Norman on December 8, 2022, to proceed with the plaintiff’s request for an injunction hearing without ruling on Susan C. Norman’s Rule 12(b)(1) A and B (Dkt. Nos. 35 and 42) Rule 12(b)(1) Motions to Dismiss and Brief in Support based on defendant Susan C. Norman’s assertion of the trial court’s lack of jurisdiction based on the application of the “judicial proceedings privilege” to the entirety of this case, which provides total immunity from suit and provides for immediate interlocutory appeal to this Court. The trial court’s decision to move forward with a hearing on plaintiff’s request for an injunction is tantamount to a decision denying Susan Norman’s assertion of total immunity from suit arising under Susan Norman’s assertion of the “judicial proceedings privilege.”

Notice is hereby given that Susan C. Norman, a *pro se* Defendant in the above entitled and numbered cause, hereby appeals to the United States Court of Appeals for the Fifth Circuit from the District Court’s decision on December 8, 2022 as reflected in the Notice of Setting for an “Injunction Hearing” to be held on

December 15, 2022 at 3:00 p.m. and forwarded to Susan C. Norman on December 8, 2022, to proceed with the plaintiff's request for an injunction hearing without ruling on Susan C. Norman's Rule 12(b)(6) A and B (Dkt Nos. 39 and 40) Rule 12(b)(6) Motions to Dismiss and Brief in Support based on defendant Susan C. Norman's assertion of the trial court's lack of jurisdiction based on the failure of plaintiff to state a claim under the Lanham Act and under its fraud cause of action based on application of the "judicial proceedings privilege" to the entirety of this case, which provides total immunity from suit and provides for immediate interlocutory appeal to this Court. The trial court's decision to move forward with a hearing on plaintiff's request for an injunction is tantamount to a decision denying Susan Norman's assertion of total immunity from suit arising under Susan Norman's assertion of the "judicial proceedings privilege." See Excerpt of Transcript.

A district court's order denying or refusing to rule on an assertion of immunity from suit known as the "judicial proceedings privilege" is considered a "final decision" that can be immediately appealed and over which the United States Court of Appeals has jurisdiction under the "collateral order doctrine" pursuant to 28 U.S.C. § 1291. See *Shanks v. AlliedSignal, Inc.*, 169 F.3d 988, (5th Cir.), and *BancPass, Inc. v. Highway Toll Admin., L.L.C.*, 863 F.3d 391 (5th Cir. 2017).

In this situation a trial court must not defer ruling on Defendant's assertion of immunity from suit and instead proceed with other aspects of trial and requested relief. As the Fifth Circuit recently held in *Carswell II*, 2022 U.S. App. LEXIS 33072 (Nov. 30, 2022) the Fifth Circuit is "a court of review and not a court of first view" and the district court must rule on the immunity from suit issues before proceeding.

Respectfully submitted.

/s/ Susan C. Norman
Susan C. Norman, *pro se*
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Certificate of Service

I hereby certify that on the 8th day of December 2022, I electronically filed the foregoing document with the Clerk of the District Court through the ECF system and an email notice of the electronic filing was sent to all attorneys of record.

/s/ Susan C. Norman
Susan C. Norman, *pro se*

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

Lewis Brisbois Bisgaard and Smith LLP

v.

Case Number: 4:22-cv-03279

Michael Joseph Bitgood, et al.

Notice of Setting

A proceeding has been set in this case as set forth below.

BEFORE:
Judge Keith P Ellison

LOCATION:

by video

Meeting Link:

<https://www.zoomgov.com/j/1613529631?pwd=WUFPWFRRZE56M051YXBQelRSaGxydz09>

Meeting phone number:

Meeting ID: 161 352 9631

Meeting Password: 243113

United States District Court
515 Rusk Street
Houston, TX 77002

DATE: 12/15/2022

TIME: 03:00 PM

TYPE OF PROCEEDING: Injunction Hearing

RE: Complaint – #1

Date: December 8, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LEWIS BRISBOIS . 4:22-CV-03279
BISGAARD AND SMITH, LLP, . HOUSTON, TEXAS
PLAINTIFF, . NOVEMBER 17, 2022
VS. . 11:30 A.M.

MICHAEL J. BITGOOD,
RICHARD P. JONES,
SUSAN C. NORMAN, AND
BRADLEY B. BEERS,
DEFENDANTS.

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TRANSCRIPT OF MOTION HEARING HELD REMOTELY
BEFORE THE HONORABLE KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

APPEARANCES

ALL PARTICIPANTS APPEARED BY TELEPHONE

FOR THE PLAINTIFF:

William S. Helfand
Shane L. Kotlarsky
Bennett Fisher
Sean B. Braun
LEWIS BRISBOIS BISGAARD AND SMITH
24 Greenway Plaza
Suite 1400
Houston, Texas 77046

APPEARANCES - CONTINUED

FOR THE DEFENDANT MICHAEL J. BITGOOD:

Michael J. Bitgood
PRO SE

FOR THE DEFENDANT RICHARD P. JONES:

No appearance

FOR THE DEFENDANT SUSAN C. NORMAN:

Susan C. Norman
PRO SE
Attorney at Law
Post Office Box 52518
Houston, Texas 77052

FOR THE DEFENDANT BRADLEY B. BEERS:

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OFFICIAL COURT REPORTER:

Mayra Malone, CSR, RMR, CRR
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Houston, Texas 77002

Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.

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PROCEEDINGS

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THE COURT: Good morning and welcome. This is Keith Ellison. We're on the record in Lewis Brisbois versus Bitgood. We will take appearances of counsel, or parties, beginning with the plaintiff.

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MR. HELFAND: Good morning, Your Honor. Bill Helfand, Bennett Fisher, Shane Kotlarsky and Sean Braun for the plaintiff.

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THE COURT: Thank you. For defendant?

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MR. BITGOOD: Michael Joseph Bitgood. Good morning, Your Honor.

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MS. NORMAN: Good morning, Your Honor. Susan Norman for herself.

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THE COURT: Hello, Ms. Norman.

MR. DUNWOODY: This is Wallace Dunwoody for Brad Beers.

THE COURT: Thank you.

Welcome to all of you.

I'm really disappointed this case hasn't been wrapped up by now. It doesn't seem to be disagreement between the parties. It seems like a fairly straightforward solution.

Explain to me what is going on. We will start with the plaintiff.

MR. HELFAND: Judge, as we promised we would at the

12:00 1 So, again, Mr. Bitgood is good with the
2 ad hominem but not so much with the law. We will get that
3 issue resolved. It is pending in state court. And if this
4 lawsuit continues, we will get it resolved without Mr. Bitgood
12:00 5 and Ms. Norman's participation, and then I don't think the law
6 firm will agree to settle on nonmonetary terms.

7 So, again, it is laid out before them. He still
8 hasn't told you why Ms. Norman and Mr. Bitgood can't agree to
9 simply let the district judge set aside those orders now that
12:00 10 he has settled his lawsuit. But that's where we are, Judge.
11 And, again, I'm happy to submit it to the Court. And if the
12 Court thinks there is something unreasonable in it, we will
13 take the Court's guidance on that. But Your Honor just said it
14 best: It is either full and final resolution of every disputed
12:00 15 issue between these parties without further expenditure of
16 lawyer time by Lewis Brisbois, the real Lewis Brisbois, or it's
17 not a settlement. It's that simple.

18 THE COURT: Well, all I can do for now is set a
19 hearing on the preliminary injunction motion and other pending
12:01 20 motions.

21 George, can we find a date for that next week?

22 *(No response)*

23 THE COURT: Next week is not good?

24 MR. HELFAND: Next week is getting very crowded for
12:01 25 me, Judge.

12:01 1 Could we do it on the 22nd, Judge? That's the
2 one day I have open next week.

3 THE COURT: George, how does the 22nd look?

4 THE CASE MANAGER: The 22nd is pretty packed.

12:01 5 MR. BITGOOD: How about the first week after
6 Thanksgiving, Your Honor? Thanksgiving is next week, by the
7 way.

8 THE CASE MANAGER: Judge, Monday, November 28, is open
9 all day.

12:02 10 *(Simultaneous crosstalk)*

11 MS. NORMAN: Your Honor, this is Susan Norman. What's
12 being set?

13 THE COURT: A hearing on all pending motions,
14 including the motion for preliminary injunction.

12:02 15 *(Simultaneous crosstalk)*

16 THE COURT: Sorry?

17 MR. HELFAND: This is Bill Helfand. Can we do it on
18 the 22nd, Your Honor? I can't do it on the 28th because I'm
19 taking a deposition in the Heckford case, which Your Honor may
12:02 20 know is going to trial before you in early December.

21 MR. BITGOOD: Mr. Helfand, there are five lawyers on
22 these pleadings. Lead counsel is Bennett Fisher. Is he
23 unavailable too?

24 MR. HELFAND: I'm not going to respond to anything
12:02 25 that Mr. Bitgood says to me directly, Your Honor, or any other

1 person. Everyone can speak to the Court. I am lead counsel in
2 this case.

3 Can we do it on the 22nd, please?

4 MS. NORMAN: Your Honor, this is Susan Norman. If I
5 may be heard, please?

6 THE COURT: Yes, you may.

7 MS. NORMAN: I respectfully request the Court have the
8 hearing first on the pending motions, because those will be
9 dispositive of whether or not there even can be a preliminary
10 injunction.

11 THE COURT: Which motion are you speaking of?

12 MS. NORMAN: The motions -- my 12(b)(1) motion. I
13 have got eight separate issues in 12(b)(1). I have got 19
14 separate issues under 12(b)(6). And then plaintiff still has
15 not -- the first thing that has to be dealt with, Your Honor,
16 is complete immunity from suit, and I have briefed very
17 thoroughly, contrary to other assertions to the Court -- under
18 the judicial proceedings privilege, there is complete immunity
19 from suit, and I respectfully request the Court deal with that
20 first before having a hearing on preliminary injunctions.

21 THE COURT: Well, I will set those motions for the
22 same day. If one of your motions is successful, then we can
23 adjourn the hearing. But I will deal with those motions first,
24 and then we can turn to the issue of preliminary injunction.

25 MS. NORMAN: I appreciate my client to be out of town

1 on a matter first and to get back to this hearing -- to have a
2 hearing on the 22nd will be very difficult. I would appreciate
3 not doing it next week and doing it the week after, on the
4 28th, as Mr. Kelner advised the Court was available.

5 THE COURT: That's not good for Mr. Helfand.

6 MR. HELFAND: The 28th is not workable, Judge,
7 because, as I said, I have got to take a deposition in the
8 Heckford case, which is about to go to trial.

9 MR. BITGOOD: May I suggest something, Your Honor?
10 I'm addressing you and not Mr. Helfand.

11 THE COURT: Okay.

12 MR. BITGOOD: We extend the TRO to the first week in
13 December where everybody is available and then we have our
14 hearing. We agree to extend the TRO so that he feels confident
15 that nothing is going to happen from here until the day of that
16 hearing.

17 THE COURT: I think we need to extend the TRO, but I'm
18 trying to find a date where we can hear this. It doesn't sound
19 to me like the parties are going to agree, so we need to move
20 toward a preliminary injunction hearing. If we surmount the
21 objections Ms. Norman has raised, if she prevails, then we
22 don't have a preliminary injunction.

23 THE CASE MANAGER: Judge, this is George.
24 December 1st, the morning is free.

25 THE COURT: How about that then?

* * * *

I, Mayra Malone, CSR, CRR, RMR, certify that as a Federal Official Reporter for the Southern District of Texas, I have transcribed the Zoom/telephone conference of the foregoing entitled case to the best of my ability; that any inaudible designations are because of audio interference that precluded me from understanding the words spoken; and that the foregoing typewritten matter contains a full, true and correct transcript of my understanding of the aforesaid proceedings as recorded, to the best of my skill and ability.

DATE: November 22, 2022

/s/ Mayra Malone

Mayra Malone, CSR, RMR, CRR
Official Court Reporter